

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 18-956 (MSG)
)	
ACCORD HEALTHCARE, INC.,)	
)	
Defendant.)	

FINAL JOINT CLAIM CHART

Pursuant to paragraph 4 of the Court’s January 28, 2019 Scheduling Order (D.I. 27), the parties submit the attached Final Joint Claim Chart (Exhibit A) setting forth their disputed proposed claim constructions for the asserted claims of U.S. Patent No. 9,375,405 (“the ’405 patent”).

In order to narrow the issues before the Court, the parties have reached agreement as to the construction of the following claim term:

Claim Term	Joint Proposed Construction
“relative to the total weight of the composition”	“relative to the total weight of the composition, including coating materials”

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EXHIBIT A
DISPUTED CLAIM CONSTRUCTIONS AND INTRINSIC EVIDENCE

Disputed Terms			
Asserted Claims to be Construed ¹	Claim Term	Amgen's Proposed Construction and Intrinsic Evidence ²	Accord's Proposed Construction and Intrinsic Evidence ²
'405 patent, claims 1, 20	"from about 1% to about 5% by weight of at least one binder selected from the group consisting of povidone, hydroxypropyl methylcellulose, hydroxypropyl cellulose, sodium carboxymethylcellulose, and mixtures thereof"	<p>"from about 1% to about 5% by weight of at least one binder selected from the group consisting of povidone, hydroxypropyl methylcellulose, hydroxypropyl cellulose, sodium carboxymethylcellulose, and mixtures thereof, which are capable of forming liquid bridges that harden upon drying, and the pharmaceutical composition may contain unlisted binders (other binders outside the group)"</p> <p>Intrinsic support: <i>See, e.g.,</i> '405 patent, col.6 l.57-col.7 l.9, col.7 ll.32-49, col.9 ll.42-45, col.11 l.10-col.13 l.15, claims 1, 20.</p> <p>Prosecution history of the '405 patent, including 2015-03-25 Notice of Allowability, pages 2-8; 2015-08-18 Notice of Allowability, page 2; 2015-</p>	<p>"from about 1% to about 5% by weight of at least one binder selected from the group consisting of povidone, hydroxypropyl methylcellulose, hydroxypropyl cellulose, sodium carboxymethylcellulose, and mixtures thereof, and no unlisted binder"</p> <p>Intrinsic support: '405 patent at Fig. 1, 6:57-8:12, 11:5-13:15, and 13:18-15:3.</p> <p>Prosecution history of the '405 patent, including papers dated 1/3/12, 9/16/14, 12/15/14, and 3/25/15.</p>

¹ The asserted claims in which the identified claim terms appear are provided for convenience. To the extent a given term appears in other asserted claims, the parties assert that they have the same meaning wherever they appear. The parties reserve the right to modify or amend this disclosure in view of further discovery, information, and analysis, and to cite additional evidence in response to evidence and arguments presented during these proceedings.

² In addition to the intrinsic evidence support listed here, the parties intend to rely on extrinsic evidence, including expert opinion, regarding how a person of ordinary skill in the art would construe the disputed claim terms.

		<p>12-01 Preliminary Amendment, page 7; 2015-12-10 Examiner initiated interview summary; 2015-12-10 Notice of Allowability, pages 3-4; 2016-04-06 Notice of Allowability, page 3.</p> <p>Application No. 10/937,870 (parent application of '405 patent incorporated by reference into specification), claims 30, 43, 78, 100, 101 (pages 35, 38, 46, 50).</p>	
'405 patent, claims 1, 20	"hydroxypropyl methylcellulose"	<p>"any hydroxypropyl methylcellulose that is present in the composition"</p> <p>Intrinsic support: <i>See, e.g., '405 patent, col.6 ll.57-64, col.7 ll.28-31, col.11 l.37, col.11 ll.39-40, col.12 ll.21-26, fig.1, claims 1, 20.</i></p>	<p>"hydroxypropyl methylcellulose"</p> <p>Intrinsic support: '405 patent at Fig. 1, 6:57-8:12, 11:5-13:15, and 13:18-15:3.</p> <p>Prosecution history of the '405 patent, including papers dated 1/3/12, 9/16/14, 12/15/14, and 3/25/15.</p>